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Attorneys for Plaintiffs  
and Third-Party Defendants,  
the SS Entities

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD.,	)	CIVIL NO. CV 04-00124
a Japanese corporation,	)	ACK/BMK
	)	
Plaintiff,	)	CONSOLIDATED CASES
	)	
vs.	)	<b>PLAINTIFFS' AND THIRD-PARTY</b>
	)	<b>DEFENDANTS' SUMMARY OF RELATED</b>
	)	<b>STATE COURT LITIGATION;</b>
QK HOTEL, LLC, a Hawai'i	)	<b>CERTIFICATE OF SERVICE</b>
limited liability company,	)	
et al.,	)	DATE: March 20, 2006
	)	TIME: 1:30 p.m.
Defendants,	)	JUDGE: Hon. Alan C. Kay
	)	
and	)	
	)	
FRANKLIN K. MUKAI,	)	
	)	
Third-Party	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
SPORTS SHINKO (USA) CO.; LTD.,	)	
a Delaware corporation, et al.,	)	
	)	
Third-Party	)	
Defendants.	)	
	)	

SPORTS SHINKO (USA) CO., LTD.,	)	
a Delaware corporation,	)	CIVIL NO. CV 04-00125
	)	ACK/BMK
Plaintiff,	)	
	)	
vs.	)	
	)	
PUKALANI GOLF CLUB, LLC, a	)	
Hawai'i limited liability	)	
company, et al.,	)	
	)	
Defendants,	)	
	)	
and	)	
	)	
FRANKLIN K. MUKAI,	)	
	)	
Third-Party	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
SPORTS SHINKO CO., LTD.,	)	
a Japan corporation, et al.,	)	
	)	
Third-Party	)	
Defendants.	)	
	)	
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SPORTS SHINKO (USA) CO., LTD, a	)	CIVIL NO. CV 04-00126
Delaware corporation,	)	ACK/BMK
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
KIAHUNA GOLF CLUB, LLC,	)	
a Hawai'i limited liability	)	
company, et al.,	)	
	)	
Defendants,	)	
	)	
and	)	
	)	
FRANKLIN K. MUKAI,	)	
	)	
Third-Party	)	
Plaintiff,	)	
	)	

vs. )  
 )  
 )  
 SPORTS SHINKO CO., LTD., )  
 a Japan corporation, et al., )  
 )  
 Third-Party )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

SPORTS SHINKO CO., LTD., a ) CIVIL NO. CV 04-00127  
 Japanese corporation, ) ACK/BMK  
 )  
 Plaintiff, )  
 )

vs. )  
 )  
 )  
 OR HOTEL, LLC, a Hawai'i )  
 limited liability company, )  
 et al., )  
 )  
 Defendants, )  
 )

and )  
 )  
 FRANKLIN K. MUKAI, )  
 )  
 Third-Party )  
 Plaintiff, )  
 )

vs. )  
 )  
 SPORTS SHINKO (USA) CO., LTD., )  
 a Delaware corporation, et al., )  
 )  
 Third-Party )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

SPORTS SHINKO (USA) CO., LTD., ) CIVIL NO. CV 04-00128  
 a Delaware corporation, ) ACK/BMK  
 )  
 Plaintiff, )  
 )

vs. )  
 )  
 )  
 MILILANI GOLF CLUB, LLC, )  
 a Hawai'i limited liability )  
 company, et al., )  
 )

Defendants,	)
	)
and	)
	)
	)
FRANKLIN K. MUKAI,	)
	)
Third-Party	)
Plaintiff,	)
	)
vs.	)
	)
SPORTS SHINKO CO., LTD.,	)
a Japan corporation, et al.,	)
	)
Third-Party	)
Defendants.	)
	)

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**PLAINTIFFS' AND THIRD-PARTY DEFENDANTS'  
SUMMARY OF RELATED STATE COURT LITIGATION**

Plaintiffs and the Sports Shinko Third-Party Defendants (collectively, the "**SS Companies**"), by and through their attorneys, Alston Hunt Floyd & Ing, hereby respond to Judge Kay's March 16, 2006 request for a summary of related state court litigation.

**I. STATE COURT CASES RELATED TO THE CONSOLIDATED CASES**

**A. The RMS Lawsuit**

The only Hawai'i State Court case related to these consolidated cases was *Sports Shinko (USA) Co., Ltd. et al. v. Resort Management Services (Hawaii), Inc. et al.*, Civil No. 02-1-2766 (EEH) filed in the First Circuit Court of the Circuit Court of Hawai'i (the "**RMS Lawsuit**").

1. **Parties:** Sports Shinko Co., Ltd. is not a plaintiff in the RMS Lawsuit, but otherwise, the parties are as set forth in the KG Defendants' summary. Defendants Toshio Kinoshita, Satoshi Kinoshita, Takeshi Kinoshita, Toshiya Kinoshita, and Tsugio Fukuda were former officers and/or directors of various SS Companies.

2. **Claims:** the Sports Shinko Plaintiffs pursued claims for the *fraudulent transfer* of bogus "termination fees" allegedly owed to Resort Management Services (Hawaii), Inc. ("RMS"), a dummy management company owned and operated by Toshio Kinoshita's former personal secretary, Yasuo Nishida.<sup>1</sup> On February 1, 2002, Satoshi Kinoshita (the Vice President of the Hawai'i SS Companies) caused Sports Shinko (Pukalani) Co., Ltd. to transfer a valuable Maui property to RMS in partial satisfaction of the bogus "termination fees". The plan was for assets to be poured into RMS, which the sons of Toshio Kinoshita could later obtain through a Stock Option Agreement that gave them the right to purchase RMS's stock for only \$1,500.

The SS Companies also sought damages from their former officers and directors for *breach of fiduciary duties and aiding and abetting breach of fiduciary duties*.

3. **Impact of the RMS Lawsuit on these Consolidated Cases:** The RMS Litigation is concluded and will have no direct

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<sup>1</sup> See 7/12/2005 Second Amended Complaint filed in Civil No. CV 04-00128 at ¶¶ 17-28, 45, & 47.

impact on these cases, though the fraudulent transfers challenged in the RMS Litigation are factually relevant to the consolidated cases.

**4. Present Status of the RMS Lawsuit:** The RMS Lawsuit was successfully settled against all defendants in 2005. Plaintiffs recovered title to the Maui property that Satoshi Kinoshita fraudulently transferred to RMS as part of settlement with Mr. Nishida and RMS.

The SS Companies also obtained the Kinoshitas' and Mr. Fukuda's agreement to give interviews. They are former officer and directors of the SS Companies so the transcripts and recordings of the interviews are protected by the work product doctrine and the attorney client privilege.

The SS Companies will assist in producing these witnesses for oral depositions.

SS is also presently pursuing documents from a electronic forensic image of Satoshi Kinoshita's personal hard drive, on which case specific key word searches yielded over 750,000 "hits." In 2003, Satoshi failed to produce the drive or documents from it in response to the SS Plaintiffs' discovery requests, and then contradicted himself by testifying at his deposition in mid-2005 that the hard drive held responsive documents. We have been working with counsel for Satoshi Kinoshita to find solutions to the technical difficulties involved in the privilege review of the large electronic files

and the recovery of deleted files, so that the SS Companies can get the documents to which they are entitled.

## **II. California Litigation**

The former Trustee also caused the SS Companies to file a lawsuit in California related to a scheme similar to the RMS case. SS Entities sought to recover a fraudulent \$10,000,000.00 "management fee" paid to a bogus management company when SS closed the sale of its La Costa Resort and Spa property on November 15, 2001. This litigation was settled in Plaintiffs' favor in 2005. (*Sports Shinko (USA) Co., Ltd. et al. v. Ronald W. Thompson, et al.*, No. GIC 809347, Superior Court of the State of California for the County of San Diego.) This case will have no impact on these consolidated cases.

DATED: Honolulu, Hawai'i, March 17, 2006.

/S/ Glenn Melchinger  
PAUL ALSTON  
GLENN T. MELCHINGER

Attorneys for Plaintiffs  
and Third-Party Defendants,  
the SS Entities